

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

MICHAEL DELON FLEMING, et. al.,

Plaintiff(s),

CASE NO.: 2:04-CV-74354-DT

vs.

HON. ARTHUR J. TARNOW
MAG. JUDGE WALLACE CAPEL, JR.

F.N.U. FIELDS, et. al.,

Defendant(s).

ORDER DENYING
PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL
AND
GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME
TO FILE RESPONSE TO MOTION FOR SUMMARY JUDGMENT

This matter is before the Court on the Plaintiff's "Motion For Appointment Of Counsel, And Motion To Delay Summary Disposition Until Counsel Can Be Found To Represent A Legally Incapacitated Mentally Ill Plaintiff For Purpose Of Responding To Summary And Discovery," filed on April 14, 2006. In support of the motion, the Plaintiff indicates that his previous counsel was granted leave of Court to withdraw from this matter. Plaintiff further states that although he is being assisted in the preparation of his papers in this case, he does not have competent legal counsel.

A review of the record in this case indicates that on March 13, 2006, the Honorable Arthur J. Tarnow denied without prejudice Plaintiff's earlier filed motion for counsel. Judge Tarnow determined that this matter is not appropriate for the appointment of counsel. The undersigned concurs in that finding.

Except in rare circumstances, it is the practice of this Court to consider appointment of counsel in prisoner civil rights cases only after a motion to dismiss or for summary judgment has been denied. Accordingly, the Plaintiff's motion for appointment of counsel is hereby **DENIED**

WITHOUT PREJUDICE.

Plaintiff is also requesting an extension of time in which to respond to the Defendants' motion for summary judgment until he is able to obtain new counsel.

Rule 6(b), Federal Rules of Civil Procedure states that "When by these rules or by notice given thereunder or by order of the court an act is required or allowed to be done at or within a specified time, the court for good cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request thereof is made before the expiration of the period originally prescribed or as extended by a previous order....."

Having considered the Plaintiff's motion and the circumstances in this matter, the motion for an extension of time is hereby **GRANTED**.

IT IS HEREBY ORDERED that the Plaintiff shall be granted an extension of time of **THIRTY DAYS** from receipt of this order in which to file his response to the pending motion.

The parties are hereby informed that any objection to this order must be filed with the district court within ten days after service pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: April 21, 2006

s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on **April 21, 2006**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: James M. Surowiec, Esq., and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Azzam E. Elder, Esq., Wayne County Corp. Counsel, 600 Randolph, 2nd Floor, Detroit, MI 48226-2831, Michael Delon Fleming, R.Q. Handlon Correctional Facility, 1728 W. Bluewater Hwy., Ionia, MI 48846, Sue Fleming, 18820 Moross, Detroit, MI 48224

s/ James P. Peltier
James P. Peltier
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